

REMARKS

This application has been carefully reviewed in light of the Office Action dated November 19, 2009. Claims 1 to 3, 5 to 12, 32, and 33 are in the application, with Claim 1 being independent. Reconsideration and further examination are respectfully requested.

Claims 1 to 3, 5, 7 to 10, 12, 32, and 33 were rejected under 35 U.S.C. § 102(b) over U.S. Publication No. 2002/0191884 (Letant). Claims 11 and 33 were rejected under 35 U.S.C. § 102(b) or, in the alternative, under 35 U.S.C. § 103(a) over Letant. Claim 6 was rejected under 35 U.S.C. § 103(a) over Letant in view of U.S. Patent No. 3,973,118 (LaMontagne). Claim 32 was rejected under 35 U.S.C. § 103(a) over Letant in view of U.S. Patent No. 5,712,840 (Matsumura). These rejections are respectfully traversed.

According to a feature of the claims as recited by Claim 1, the quantity of the target substance is calculated based on a change in position with respect to an electromagnetic wave emitted from the periodic structure.

Example aspects corresponding to the foregoing feature are described at page 28, line 19 to page 33, line 12, and Figures 20 and 21, of the subject application. Of course, it should be noted that these cited portions describe example aspects of the disclosure, and Claim 1 is not limited as such.

None of Letant, LaMontagne, and Matsumura, even in the proposed combinations, assuming, *arguendo*, that such could be combined, is seen to disclose or suggest at least the foregoing feature.

As described in Letant, light from a light source 30 is transmitted to a subject, detected by a microscope objective 34, and focused on a detector 36. Then, a computer 38 converts the data to produce a graph 40 of the transmission curve, i.e., the intensity of the light versus the wavelength. The computer 38 detects the presence of a target 23 and calculates its concentration. See para. [0049] and Figure 6 of Letant.

Thus, Letant is merely seen to disclose that the presence of a target substance is detected, and its concentration calculated, from a change in the wavelength or a change in the intensity of the transmitted light. Nowhere is Letant seen to describe that the quantity of a target substance is calculated based on a change in position with respect to an electromagnetic wave emitted from a periodic structure.

LaMontagne and Matsumura are not seen to remedy the foregoing deficiencies of Letant.

The dependent claims are also submitted to be patentable because they set forth additional aspects of the claims and are dependent from the independent claim discussed above. Therefore, separate and individual consideration of each dependent claim is respectfully requested.

REQUEST FOR INTERVIEW

If upon consideration of this Amendment, the Examiner still has concerns as to the patentability of the claims, Applicants respectfully request that the Examiner contact Applicants' undersigned representative to arrange an interview.

CONCLUSION

The application is believed to be in condition for allowance, and a Notice of Allowance is respectfully requested.

Applicants' undersigned attorney may be reached in our Costa Mesa, California office by telephone at (714) 540-8700. All correspondence should be directed to our address given below.

Respectfully submitted,

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